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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,448	08/02/2001	Edward Moore	103794-399-NP	6114

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EXAMINER

EDELL, JOSEPH F

ART UNIT PAPER NUMBER

3636

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/921,448

Applicant(s)

MOORE, EDWARD

Examiner

Joseph F Edell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 17 March 2004 has been entered.

Drawings

2. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Objections

3. Claims 1 and 17 are objected to because of the following informalities:
- a. claim 1, line 7, "attached and supported on to" should read "attached to and supported on";
 - b. claim 17, line 20, "position, to" should read "position to".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3, 4, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,271,170 to Jellinek et al.

Jellinek et al. disclose a chair that includes all the limitations recited in claims 1, 3, 4, and 18. Jellinek et al. show a chair having a base 6 (Fig. 4), a cantilever arm 14 (Fig. 1) pivotally connect to the base, a seat 27 (Fig. 1) attached to and supported on a first end of the cantilever arm, and an extendible brake 23 (Fig. 1) attached to the first end of the cantilever arm and having a ground engaging surface 24 (Fig. 1) being movable from an elevated first position (Fig. 1) in which the ground engaging surface is not in contact with a ground surface and a second position (Fig. 2) wherein the ground engaging surface is in contact with the ground surface to inhibit relative displacement and rotation between the first end of the cantilever arm and the base, and a brake operating mechanism 29,31,32 (Fig. 5) with an actuator selectively operable to move the brake between the first position and the second position whereby movement of the brake by an operator to the first position permits rotation of the arm about the base with the operator supported on the seat.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jellinek et al. in view of U.S. Patent No. 336,220 to Farrar.

Jellinek et al. disclose a chair that is basically the same as that recited in claims 6-12 except that the chair lacks a telescopically extendable cantilever arm, a rotatable, height adjustable seat, and a knee rest, as recited in the claims. Farrar shows a chair similar to that of Jellinek et al. wherein the cantilever arm B⁶ (Fig. 1) that is telescopically extendable and includes two members and a stop to inhibit telescopic movement of the two members, a seat D (Fig. 1) that is rotatably attached to the cantilever arm, a seat B⁸ (Fig. 1) with a back support, a removable knee rest (Fig. 1), and a base B (Fig. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the chair of Jellinek et al. such that the cantilever arm is telescopically extendable and includes two members and a stop to inhibit telescopic movement of the two members beyond a predetermined maximum extension, and a seat that is rotatably attached to the first end of the cantilever arm as well as height adjustable wherein the seat includes a back support and a removable knee rest, such as the chair disclosed in Farrar. One would have

been motivated to make such a modification in view of the suggestion in Farrar that the base, telescopically extendable cantilever arm, and seat allows for a dentist chair that enables the operator to be placed in any desired position with reference to the person being operated upon.

8. Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jellinek et al. in view of PCT Publication WO 00/22965 to Locker.

Jellinek et al. disclose a chair that is basically the same as that recited in claims 13-16 except that the chair lacks a leveler, as recited in the claims. Locker shows a chair similar to that of Jellinek et al. wherein the base 6 (Fig. 2) is secured to a ground surface 3 (Fig. 2) by a leveler 8 (Fig. 1) having multiple interconnected threaded members. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the chair of Jellinek et al. such that the base is secured to the ground surface by a leveler having three interconnected threaded members. One would have been motivated to make such a modification in view of the suggestion in Locker that the threaded members permanently attach the base to the ground surface to prevent unintentional tipping of the seat.

9. Claims 1, 3-8, and 17-24 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,400,032 to dePolo in view of EP Publication No. 0 870 476 A1 to Edlinger.

DePolo discloses a chair that is basically the same as that recited in claims 1, 3-8, and 17-24 except that the chair lacks a brake with an elevated first position and engaging second position, as recited in the claims. See Figures 1-

17 of dePolo for the teaching that the chair has a base 6 (Fig. 1), a cantilever arm 4 (Fig. 1) pivotally connect to the base wherein the cantilever arm is telescopically extendable via two members 4a,4b (Fig. 1) and a stop (Fig. 11) to inhibit movement of the two members beyond a predetermined extension, and a seat 1 (Fig. 1) pivotally attached to and supported on a first end of the cantilever arm. Edlinger show a chair similar to that of dePolo wherein the chair has a seat 3 (Fig. 1) and a brake (Fig. 4) with a brake operating mechanism (Fig. 4) activated by tilting movement of a seat member 17 (Fig. 1) to provide support for an operator in a first disengaged position and being moveable by the operator while supported into a second engaged position wherein the brake engages the ground with a ground engaging surface 59 (Fig. 2). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the chair of dePolo such that the cantilever arm has a brake with a ground engaging surface and the brake being activated by tilting movement of the seat to provide support for an operator in a first position wherein the brake is disengaged and being movable by the operator while support by the seat to a second position wherein the brake is engaged, such as the chair disclosed in Edlinger. One would have been motivated to make such a modification in view of the suggestion in Edlinger that the chair with a brake prevents unwanted rotation of the chair.

Response to Arguments

10. Applicant's arguments filed 17 March 2004 have been fully considered but they are not persuasive. Applicant argues that the chair disclosed in Jellinek et al. fails to teach a brake operating mechanism that permits disengagement of the brake and pivotal movement of the arm while supporting an operator on the seat. Please note that Jellinek et al. teaches a seat wherein the elevation of the brake to the second position, as shown in Figure 1, results primarily from the decompression of the spring 28. Therefore, a seated operator may lessen the pressure applied to the seat while supported on the seat in order to elevate the brake to the second position so that the operator may rotate the seat to a desired location relative to the base, and subsequently increase the pressure applied to the seat to return the brake to the first position. The operator remains seated and supported on the seat when the brake is in both the first and second positions.

The rejections under 35 USC 103(a) drawn toward claims 6-16 were argued solely on the premise that the cited art does not teach or suggest the brake operating mechanism defined in amended claim 1, and as a result the above 35 USC 103(a) rejections of claims 6-16 remain.

Applicant argues that the chair disclosed in dePolo fails to teach a base providing sole support of the arm and seat during rotation of the arm relative to the base, as recited in the claim 18, because the castor 3 (Fig. 1 of dePolo) provides such support. However, the arm and seat are held up, i.e. supported, only by the base. The castor allows for smooth rotation of the arm and seat

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relative to the base and provides no structural support to elevate and stabilize the arm and seat above the ground. Next, applicant argues that there would be no motivation to utilize a brake as taught in Edlinger since movement of the chair of dePolo beyond a particular confine is inhibited by the arm. However, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, one skilled in the art would be motivated to modify the chair of dePolo in view of the teachings in Edlinger that the selectively engageable brake inhibits movement of the seat. While it is true that the telescopically extendable cantilever arm of dePolo can only extend a certain distance, the teachings of Edlinger toward a selectively engagable brake would motivate one skilled in the art to modify the chair of dePolo such that the chair has a brake movable between an elevated first position and a second position wherein the brake engages the ground to inhibit both rotational and telescopic movement of the seat and arm.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is


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(703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

JE

June 25, 2004


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600